App. F. IX-4

Previous References

1928-29 (C. 9)

File No. 10-28

Serial Nos. 1 - 4

Later References

p. 15(E)

General and Revenue Secretariat.

Serial Nos.

Four

Part B for January 29

SUBJECT

Procedure adopted by the Mysore City Co-operative bank re the utilization of penal interest collected by the Bank.

G. R. S. APP F.III—1] 192 S.-29

GENERAL AND REVENUE SECRETARIAT.

(Dn. Sec)

NOTES.

C.D. File No. 10-28

FILE HEADING.

Procedure adopted by the Mysore City Co-op Bank as regards the utilisation of penal interest collected by the Bank.

FROM

The Registrar of Co-op Societies in Mysore

No. 197/C. Dated 11th July 1928 Received 12-7-28

Diary No. 364	Enclos.	Spare copies	Serial No. 1

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

NOTES—First Sheet.

P.T. 6.

General and Revenue Secretariat.

bs File No. 10 of 1928.

Serial No.	
1	Letter No 1991/bs. dt 11th July 1928 from the Registrar bs. requesting orders restricting the appropriation of penal interest arrears and directing that only certified auditors approved by the Registrar may be permitted to audit the accounts, as the rules laid down have been made use of in unscrupulous and dishonest banking matters by borrowers within the limits of circulars issued to that effect 1 The circular issued by the Registrar in 1921 is not readily available. A draft letter to the Registrar calling for a copy of the circular is put up for approval SDO 11/8/28 Please issue draft letter 2 Y. The Registrar of Co-op Societies No. D 18008 dt 10th Aug. 1928 Requests him to furnish a copy of this Cir. no. 5528-727 dt the 4th June 1921. 3 Returned as directed S.D. 11.8.28 4 Returned. Issued to Work Asst. Secy for instruction S.D. 13.8.28

GEN. & REV. SECRETARIAT 14 AUG. 1928 DEVELOPMENT BRANCH

NOTE—Contin Sheet

1560

3

App. F. III—2]

General and Revenue Secretariat. C. S. File No. 10 of 1928.-29

Serial No. 3

From

The Registrar of Co-op. Societies Mysore
No. 1110 of 17th Aug. 1928

Forwarded, as desired, a copy of his circular no. 5528-727 of 4th June 1928

5/ The circular above referred to communicated to all the Societies in the State the revised Rules under the Co-op. Societies Regulation and further enjoins them to get such of their bye-laws as are inconsistent with the new Rules suitably altered.

6/ The points for orders of Govt. is set forth in the last para of the Registrar's letter of the 11th July 1928.

Submd.

S.O. 25.8.28 7/ Please put up with a copy of the latest Regl" & Rules

S.O. 27/8 8/ Submd: with a copy each of the Co-op. Societies Regulation and the Rules thereunder

I am sorry this file got held up with me for some time. WP 2

S.O. 28/8 9/ The contention of the Bank, that no part of the penal interest is recovered is actually utilised for paying dividends and that the penal interest is not taken into account in

2415 of 28 1560

(4)

General and Revenue Secretariat. L & G. File No. 10 of 1928-29

Serial No.

Section 33 of the Income Tax Regulation

arrive at the net profits for determining the amount to be carried on to the Reserve fund and the amount that will be available for distribution as dividends.

10) There seems to be nothing in the "Regulations" or Rules, prohibiting the adoption of this method by the Bank.

Ld. Sec[y] may be consulted.

Sec[y] D) UP 6/11/28

11) d. L Sec[y] with compliments for favour of perusal.

22/11/28

22/11

12) My opinion is placed before Secretary with compliments.

8/12

13) The opinion of the K. R. is correct on the rule as it is — but I venture to think that the rule itself is capable of harsh and inequitable application, and deserves to be tempered by suitable safeguards. It is quite conceivable and I believe it actually occurs in practice that what a Society gets in penal interest about Contractors etc. is not of

1st (5)

App. F. III—2]

General and Revenue Secretariat. | G File No. 10 of 1928.

Serial No.

6565
17/12

losses in bad debts and otherwise; and if it is strictly insisted that penal interest shd not enter into the calculation of profit & loss but shd invariably be transferred to the reserve, it may well happen that the Society is compelled to put aside a reserve, even while it makes a loss. I wd therefore support that the rule might be tempered with the condition that ~~except where~~ penal interest shall first be applied to avert a loss, and become a real profit (a proviso might be framed), and the balance if any shall be transferred to the reserve fund

3d Member

16/12/28

14/ I think the rule as they stand are all right: 75% of the net profits excluding penal interest can be distributed as dividends — 25% of the net profits must go to the reserve fund. The collections on penal interest might go to the Reserve fund, or any special reserve, eg for bad debts, or be utilised for immediate objects.

21/12/28

21/12/28

NOTE—Contn. sheet.

WD 0321 -GPB-60,000-21-5-27

O P I N I O N.

The question that arises for consideration is whether penal interest can be taken into account in arriving at the net profits of a Co-operative Society. Rule 18 of the rules framed under Section 44 of the Co-operative Societies Regulation prohibits the appropriation of penal interest towards dividends except with the permission of the Registrar. Under Section 33 one fourth of the net profits have to be carried to a Reserve fund and the balance may be utilised for distribution among the members according to rules or bye-laws. If therefore the penal interest is shown as a profit, it is clear that the penal interest is included in the net profits of the Society and as such used up, at least in part towards the distribution of dividends to members. Rule 18 clearly prohibits the penal interest or any part of it being used up for the payment of dividends and hence I am of opinion that Co-operative Societies should be instructed not to include the Penal interest as an item of profit to be used for the payment of dividends

Legal Remembrancer.

5. 12. 1925.

1580/1

Serial No.

15 Submits draft of a letter to the Rt. Hon'ble Lord Reading G.C.S.I. on the lines of the Member's minute dt. 21.12.28 28/12

Issue Cir. 6.1.29.

S.O.R.

16 Medl. C.S.D. 7012 dt. 7.1.29 informing him of the orders ~~of the Member in the~~ contained in the Member's minute dt. 21.12.28 paragraph 14 above.

15 Jan 1929

GEN. & REV. SECRETARIAT
12 JAN. 1929
DEVELOPMENT BRANCH

No. 199 CS.

DEPARTMENT OF CO-OPERATION.

GOVERNMENT OF MYSORE.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE.

Telegraphic Address: "CO-OPERT" BANGALORE

Dated Bangalore, 11th July *192* 8.

364

FROM

K. H. RAMAYYA, ESQ., B.A., BAR-AT-LAW,
REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE,
BANGALORE.

GOVT. OF MYSORE SECRETARIAT 354 13 JULY 1928 DEVELOPMENT BRANCH

To

N. Rama Rao, Esq., B.A. B.L.,
Secretary to Government, Development Departments,
B a n g a l o r e.

Sir,

G.S. 10 - 28 - 1

I have the honor to state that the Mysore City Co-operative Bank has been disregarding rule No.18 of the Rules framed under the Mysore Co-operative Societies Regulation No.VII of 1918 in the matter of the utilisation of the penal interest recovered from members. Penal interest is the extra interest charged for defaults in excess of the ordinary rate of interest. Thus while ordinary interest is profit earned by the Bank on the loans granted to members, the penal interest is only a fine recovered for defaults and as such is not at all an item of profits, which could be utilised for meeting any legitimate working expenses of the Bank or for the payment of dividends. Rule No.18 above referred to reads as follows- "A member of a Co-operative society shall not receive in dividend and bonus for one year a sum exceeding 10 per cent on the share-capital ~~xxxxxxx~~ actually paid-up by him without the special sanction of the Registrar, nor shall penal interest be appropriated towards dividends except with the express approval of the Registrar". Soon after this rule was passed, a circular (No.5528-727/C.S. dated 4th June 1921) was issued to all the societies not to appropriate the penal interest towards profits and use it as such, but to carry it to the reserve fund. This is in vogue in the majority of societies, while some carry it towards bad debts reserve or common good purposes with my special sanction.

2. During the year 1926-27 the amount of penal interest recovered

recovered by the Mysore City Co-operative Bank from defaulting members on overdue loans amounted to Rs. 2,720-12-0. In the profit and loss account of the Bank for the year, this is treated as profits and proposed to be utilised as such. Excluding this amount of penal interest, the net profits of the Bank amount to Rs. 13,663-12-1. According to the rule and my circular thereon, and the practice followed in the majority of societies, the sum of Rs. 2,720-12-0 has to be carried to reserve fund in addition to the statutory sum of 25 per cent of Rs. 13,663-12-1 i.e., in all Rs. 6,136-11-0 has to go to the reserve fund leaving only Rs. 10,247-13-1 available for payment of dividends etc. But the Bank having treated the penal interest as profits in the Profit and Loss account, and thereby increased the net profits to Rs. 16,384-8-1 proposes to allot only Rs. 4,096-2-0 to the Reserve Fund and utilise the remainder viz., Rs. 12,286-6-1 for the payment of dividends etc. No doubt, the accounts of the Bank have been audited by a certified Auditor, but he has not taken cognigance of the Co-operative Law in arriving at the Net Profits. This Bank has been persistantly ignoring the instructions of the Department in this matter since 1921 and has been appropriating the penal interest towards profits and declaring a high rate of dividends. The rate of dividend paid during the last five years is noted in the margin. The Bank is taking shelter under the plea that no portion of the penal interest is utilised actually for dividends and that the rule does not prohibit its being treated as profits.

1922-23	8½ % penal interest used
1923-24	8½ -do-
1924-25	8 -do-
1925-26	8½ -do-
1926-27	8½ -do-

3. As it is very necessary that such unco-operative and dividend hunting ~~principles~~ methods should be put a stop to in Co-operative Institutions, I request that Government may be pleased to issue orders restricting the appropriation of penal interest as profits and directing that only Certified Auditors conversant with Co-operative Law and principles, who are approved for the purpose by the Registrar of Co-operative Societies, may be permitted to audit

audit the accounts of Co-operative Institutions.

I have the honor to be,
Sir,
Your most obedient servant,

K H Ramayya

Registrar.

2/11/17

A, P. F. VI. Gt]

SUBJECT..... **Issue & Submit.**

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Section Gs.

File No. 10-28

Serial No. Division

No. D/800

General and Revenue Secretariat

( )

the *192*

To The Registrar Gs.

Diary No. of letter replied to 364

Date of issue 10/8/28

Signed by V. V. Varadan

Sir,

With reference to your letter No 194/Gs. dated 11th July re requesting orders restricting the appropriation of penal interest as profit by the Co-operative Societies, I am directed to request you to kindly forward a copy of the circular No 5528-729/Gs. dated 4-6-21 issued by you in the matter

I have etc

W.O 8/8

over for Secy to Govt

New Delhi

8/8/28

List of enclosures.....

Copied by .....

Examined by .....

WD0325—GPB—80,000—26-5-27

No.1110 C.S. 41

Telegraphic Address:
"CO-OPERT"
BANGALORE

DEPARTMENT OF CO-OPERATION.

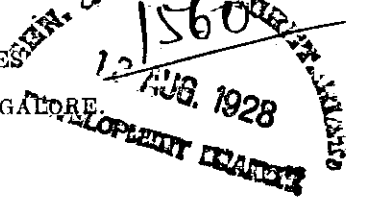
GOVERNMENT OF MYSORE.

OFFICE OF THE REGISTRAR OF CO-OPERATIVE SOCIETIES IN MYSORE.

Dated Bangalore,.....17.....August 192 8

FROM

K. H. RAMAYYA, ESQ., B.A., BAR-AT-LAW,
REGISTRAR OF CO-OPERATIVE SOCIETIES
IN MYSORE, BANGALORE.



To

N.Rama Rao, Esq., B.A., B.L.,
Secretary to Government of Mysore,
Development Departments, Bangalore.

Sir,

GS 10-28-3.

With reference to your letter No.D.1800/C.S.10-18 dated 10-8-1928, I have the honour to submit herewith for the information of the Government a copy of Circular No.5528-727 C.S. dated 4th June 1921 issued by the Registrar of Co-operative Societies both in English and Kannada in the matter of restricting the appropriation of penal interest as profits, therein.

I have the honour to be,
Sir,
Your most obedient servant

K H Ramayya

Registrar.

15/8.

Office of the Registrar of Co-operative Societies
in Mysore, dated Bangalore 4th June 1921.

CIRCULAR NO.5528-727/C.S

A copy of the revised rules framed by Government under Section 44 of the Mysore Co-operative Societies Regulation in Mysore is herewith forwarded for record in the society. These rules will supersede all the previous rules framed under the old Mysore Co-operative Societies Regulation III of 1905 and will hereafter govern the working of the Co-operative Societies in the State.

Attention is particularly invited to Rules 4,7,10(ii),16,17, 18, 19, 20, 21, 22, 24, 25, 26, 27 and 28 wherein alterations or additions have been made to the old rules.

All the Co-operative Societies are requested to get such of their byelaws as are inconsistent with any of the new rules suitably altered.

Sd.- P.A.Krishnaswami Iyer,

for R e g i s t r a r.

****

" Copy "

M H Ramayya

R e g i s t r a r.

[A. P. F. VI. G]

7

SUBJECT.....

.....

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Section C5

File No. 10-28

Serial No. 4

No. D 7012

Diary No. of letter replied to.....1560

General and Revenue Secretariat

( )

the *192*

To The Rep: C5

Date of issue.....7/11/28

Signed by.....Mr C.S. Norman

Sir

I adverting to your letter No 199/cs & 11/7/28 requesting orders restricting the appropriation of penal interest as profits &c, and subsequent correspondence connected to the herewith I am directed to state that the rules as they stand need no modification, that 75% of

List of enclosures.....

Copied by .....

Examined by .....

over

WD0325—GPB—30,000—26-5-27

8)

the net profits ~~ex~~ excluding penal interest can be distributed as proposed & that the remaining 25% earned ~~fund~~ go to the Reserve fund. The collections under penal interest might go to the Reserve fund or to augment the Reserve, eg.; for bad debts & be utilised for benevolent objects

I have &c

Clr
4.1.29

Forsell
Secretary

S.O.